

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Federal-State Joint Board	)	
on Universal Service	)	
	)	
	)	CC Docket No. 96-45
Pending Petitions for Eligible	)	
Telecommunications Carrier Designations	)	
in Alabama, Colorado, Michigan, Minnesota,	)	
and Wisconsin	)	

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**Comments of CenturyTel of Alabama, LLC, CenturyTel of Eagle, Inc.,  
and CenturyTel, Inc.**

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## Summary

Following the issuance of the *Virginia Cellular* and *Highland Cellular* orders, the Federal Communications Commission (“FCC”) invited parties to update the record pertaining to pending petitions for designation as an eligible telecommunications carrier (“ETC”). CenturyTel of Alabama, LLC, CenturyTel of Eagle, Inc., and CenturyTel, Inc. (collectively referred to as “CenturyTel”) file these comments opposing the supplemental petitions filed by ALLTEL (in Michigan and Wisconsin), Cellular South Licenses, Inc. (Alabama), Corr Wireless, RCC Holdings, Inc. (Alabama) and Sprint (Alabama) (collectively referred to as the “CETC Petitions”) and the supplemental redefinition petitions filed by the Colorado Public Utilities Commission and the Minnesota Public Utilities Commission (collectively referred to as the “Redefinition Petitions,” together with the CETC Petitions referred to as the “Petitions”). Because grant of these Petitions would not be “consistent with the public interest, convenience, and necessity,” CenturyTel opposes them.

Although the CETC Petitions include commitments based on the framework in the *Virginia Cellular Order*, such commitments nevertheless are insufficient to justify grant of the CETC Petitions because they fail to address a number of concerns raised by CenturyTel in its initial comments. CenturyTel therefore urges the FCC to engage in a full cost-benefit analysis of each CETC Petition and not base its determination solely on whether the petitioner made similar commitments as Virginia Cellular.

More specifically, CenturyTel opposes the designation of Sprint as a CETC in the proposed non-rural portions of the state of Alabama because the known costs associated with such designation outweigh the potential benefits. CenturyTel also notes that, contrary to some of the petitioners’ claims, the FCC may impose new requirements with which CETCs must comply

at any time through a rulemaking or adjudicatory proceeding, and that the FCC must find that grant of an application would serve the public interest both for rural and for non-rural areas. CenturyTel also urges the FCC to reject ALLTEL's claims that its supplemental petitions in Michigan and Wisconsin confirm the absence of cream-skimming opportunities. ALLTEL has failed to satisfy its burden of proof as to the absence of cream-skimming opportunities.

Notwithstanding the FCC's determination that CETCs should not be designated below the wire center level, the Minnesota Public Utilities Commission refuses to reverse its prior decision approving the redefinition of twelve rural carriers' service areas at the sub-wire center level. Despite the Minnesota PUC's recalcitrance, nothing in the *Highland Cellular Order* indicates that the FCC intended to approve a designation at the sub-wire center level. The FCC should reject the Minnesota PUC's Redefinition Petition and prohibit Midwest Wireless from being designated as a CETC below the wire center level.

Finally, the FCC also should reject the Colorado PUC's Redefinition Petition because the Colorado PUC failed to provide the necessary population density data required to evaluate whether opportunities for cream-skimming exist.

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CenturyTel of Alabama, LLC, CenturyTel of Eagle, Inc., and CenturyTel, Inc.  
("CenturyTel"), through their attorneys, hereby offer comments on the supplemental petitions  
filed by ALLTEL,<sup>1</sup> Cellular South Licenses, Inc. ("Cellular South"),<sup>2</sup> Corr Wireless,<sup>3</sup> RCC  
Holdings, Inc. ("RCC")<sup>4</sup> and Sprint<sup>5</sup> (collectively referred to herein as the "CETC Petitions")

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<sup>1</sup> Letter to Marlene H. Dortch, Secretary, from Cheryl Tritt, filed in CC Docket No. 96-45 on May 14, 2004 ("Alltel Wisconsin Supplement"); Letter to Marlene H. Dortch, Secretary, from Cheryl Tritt, filed in CC Docket No. 96-45 on May 14, 2004 ("Alltel Michigan Supplement").

<sup>2</sup> Supplement of Cellular South Licenses, Inc. to Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, filed in CC Docket No. 96-45 on May 14, 2004 ("Cellular South Supplement").

<sup>3</sup> Supplement to Petition of Corr Wireless Communications, LLC for Designation as an Eligible Telecommunications Carrier, filed in CC Docket No. 96-45 on May 14, 2004 ("Corr Supplement").

<sup>4</sup> Supplement of RCC Holdings, Inc. to Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, filed in CC Docket No. 96-45 on May 14, 2004 ("RCC Supplement").

and the supplemental redefinition petitions filed by the Colorado Public Utilities Commission (“Colorado PUC”)<sup>6</sup> and the Minnesota Public Utilities Commission (“Minnesota PUC”)<sup>7</sup> (collectively referred to herein as the “Redefinition Petitions,” together with the CETC Petitions known as the “Petitions”). These Petitions were filed in response to the Federal Communications Commission’s (“FCC”) Public Notice released in the above-captioned proceeding on April 12, 2004.<sup>8</sup> Because grant of the Petitions would not be “consistent with the public interest, convenience, and necessity,”<sup>9</sup> CenturyTel continues to oppose them as described in greater detail below.

**I. THE SUPPLEMENTAL COMMITMENTS MADE BY THE CETC PETITIONERS ARE INSUFFICIENT TO JUSTIFY GRANT OF THEIR PETITIONS**

The FCC has confirmed that it must perform a fact-specific cost-benefit analysis prior to granting or denying any competitive eligible telecommunications carrier (“ETC”) designation petition.<sup>10</sup> In its *Virginia Cellular Order*, the FCC found that “we do not believe that designation of an additional ETC in a non-rural telephone company’s study area based merely upon a showing that the requested carrier complies with section 214(e)(1) of the

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<sup>5</sup> Sprint Corporation Supplemental Filing, filed in CC Docket No. 96-45 on May 14, 2004 (“Sprint Supplement”).

<sup>6</sup> Supplement to Petition by the Colorado Public Utilities Commission, filed in CC Docket No. 96-45 on May 14, 2004 (CenturyTel of Eagle, Inc.) (“Colorado PUC Supplement”).

<sup>7</sup> Supplemental Comments of the Minnesota Public Utilities Commission, filed in CC Docket No. 96-45 on May 14, 2004 (“Minnesota PUC Supplement”).

<sup>8</sup> Parties Are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations, *Public Notice*, (rel. Apr. 12, 2004) (“Public Notice”).

<sup>9</sup> *Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338, at ¶ 27 (rel. Jan. 22, 2004).

<sup>10</sup> *Id.*

Communications Act of 1934, as amended, will necessarily be consistent with the public interest in every instance.”<sup>11</sup> Each competitive ETC (“CETC”) petition presents unique situations,<sup>12</sup> and, thus, the FCC should not use the analysis applicable to Virginia Cellular in place of a full, individualized analysis of each ETC applicant and the market conditions of each service area for which designation is sought.<sup>13</sup>

For example, an obvious difference between the CETC Petitions and the *Virginia Cellular Order* and the more recent *Highland Cellular Order* is that no parties had opposed Virginia Cellular’s or Highland Cellular’s requests for CETC designation in non-rural areas.<sup>14</sup> That is not the case with regard to the CETC Petitions. Further, every service area poses distinct issues. In Alabama, even though the study areas that CenturyTel serves are deemed non-rural because of the number of lines served, these areas have rural characteristics, including below-average line density. While the CETC Petitioners have made a handful of non-binding commitments based on the framework set out in the *Virginia Cellular Order*, as discussed below, they have failed to address a number of concerns raised by CenturyTel in its original comments, and thus have fallen short of demonstrating that grant of their Petitions would serve the public interest. CenturyTel therefore urges the FCC to engage in a full cost-benefit analysis of each CETC Petition and not base its determination solely on whether the petitioner made similar commitments as Virginia Cellular.

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<sup>11</sup> *Id.*

<sup>12</sup> See Rural Task Force Paper #2.

<sup>13</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04J-1, at ¶15 (rel. Feb. 27, 2004) (noting Congress’s intention that FCC guidelines be applied to “local factual situations”) (“*Joint Board Recommendation*”).

<sup>14</sup> *Virginia Cellular Order* at ¶ 27; *Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37, at ¶ 21 (rel. Jan. 22, 2004) (“*Highland Cellular Order*”).

## **II. CENTURYTEL OPPOSES DESIGNATION OF SPRINT AS A CETC IN ALABAMA BECAUSE THE BENEFITS DO NOT OUTWEIGH THE COSTS**

Designation of Sprint as a CETC would disserve the public interest because the known costs associated with such designation would outweigh the potential benefits. Grant of the Sprint Petition will lead to a substantial strain on the universal service high-cost fund. Sprint expects that the high-cost funds will increase by .0096 percent if its applications are granted.<sup>15</sup> This is not an insignificant increase when viewed in light of the fact that the CETC is not offering any new services or improvements in service for the benefit of customers. Further, the FCC has stated that disbursements must be viewed on a larger scale. As the FCC has noted, “in light of the rapid growth in competitive ETC’s, . . . comparing the impact of one competitive ETC on the overall fund may be inconclusive.”<sup>16</sup>

In addition, as commenters to this proceeding already have stressed, the increasing number of CETC applications in non-rural areas has the potential to disrupt the balance that was struck when price cap carriers lowered their interstate access charges in exchange for Interstate Access Support (“IAS”) under the CALLS Plan.<sup>17</sup> As a non-rural carrier in Alabama, CenturyTel receives IAS and urges the FCC to review the impact on the IAS fund of multiple CETCs receiving high-cost support in markets such as those served by CenturyTel. Because CALLS support is capped at \$650 million, when a CETC receives CALLS support, there is a reduction in support for available to the incumbent. CenturyTel estimates that, if all the CMRS carriers that applied for CETC status were so designated, ILECs would receive only 59 cents of every dollar of IAS to which they otherwise would have been entitled. As a result,

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<sup>15</sup> Sprint Supplement at 17.

<sup>16</sup> *Highland Cellular Order* at n.73.

<sup>17</sup> Reply Comments of CenturyTel, filed in CC 96-45 on July 14, 2003 at 7-8; Comments of Verizon, filed in CC 96-45 on June 30, 2003 at 1.



IAS available to ILECs will be reduced from \$650 million to \$384 million. In order to make up for this lost compensation, ILECs may need to raise rates or cut investment, which would contradict the very goals of access charge reform and harm customers. At this time, the FCC has not made any modifications to the CALLS Plan to compensate for the increased pressures on the interstate access fund caused by growth in CETC funding. Thus, especially based on the volume of CETC applications currently before the FCC, the FCC should remain vigilant when deciding whether to disburse federal universal service funds.

Conversely, it remains unclear what benefits would flow from grant of Sprint's CETC Petition. Sprint entered the applicable Alabama market as a wireless carrier long ago and continues to provide competitive services without the aid of universal service support. It remains unclear to what extent Sprint *requires* any universal service funding to maintain rates that are affordable and reasonably comparable, as required by the Act.<sup>18</sup> Further, no safeguards are in place to curb potential abuse associated with wireless CETCs providing multiple cell phones to each household at little cost to the CETC, merely to collect increased universal service funds. Each additional cell phone represents additional dollars for the wireless provider, but may do nothing to enhance universal service. In fact, there is evidence that consumers continue to view CMRS as complementary to, but not a substitute for, their wireline local exchange service.<sup>19</sup>

The FCC should heed the Joint Board's recommendation that the FCC determine whether Sprint's service offering meets the definition of services supported by federal universal

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<sup>18</sup> 47 U.S.C. §§ 254(b)(1), (3).

<sup>19</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, 17 FCC Rcd 12985, 13016 (2002) (noting that only 3 to 5 percent of wireless customers use their wireless phones as their only phone and that "relatively few wireless customers have 'cut the cord'").

service, including an appropriate standard for minimum local usage.<sup>20</sup> As CenturyTel has explained in prior comments in this proceeding, without minimum local usage, wireless carriers may be able to maximize support payments by winning many customers with “free” or nearly free monthly fees for “dial tone” while discouraging usage through high per-minute charges. The FCC should require Sprint to provide local usage to the same extent the incumbent local exchange carrier (“ILEC”) is required to do so, priced comparably to the ILEC’s service, to receive support.<sup>21</sup>

As a final matter, CenturyTel continues to be concerned that the mobile nature of Sprint’s service offering may undermine the universal service fund.<sup>22</sup> Pursuant to the FCC’s rules, Sprint will receive funding based on customer’s billing address.<sup>23</sup> However, the customer’s billing address may have no bearing on where the wireless phone is actually used; high-cost funds may be used to support service in non-high-cost areas if the petition is granted. As the Joint Board found, “the *place of primary use* represents the preferred definition of wireless customer location for universal service purposes because it reflects whether a customer actually uses mobile wireless phone service as a primary connection in a high-cost area.”<sup>24</sup> The FCC should adopt safeguards to ensure that federal high-cost funds are not used to fund services

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<sup>20</sup> *Joint Board Recommendation* at ¶¶ 35-36. Although the Joint Board noted the FCC’s finding that the states are best situated to determine whether a minimum local usage requirement would be appropriate (*Id.* at ¶ 35), such a finding is inapplicable where the state has deferred to the FCC as the Alabama Public Utilities Commission has.

<sup>21</sup> *See Petition of WWC Holdings Co., Inc., for Designation as an Eligible Telecommunications Carrier*, 2000 Utah PUC LEXIS 249, at 7 (2000), *aff’d sub nom. WWC Holding Co., Inc. v. Public Service Commission of Utah*, 44 P.3d 714 (Utah 2002) (requiring unlimited local usage to receive universal service support).

<sup>22</sup> *See e.g.*, Reply Comments of CenturyTel of Alabama, LLC filed in CC Docket 96-45 on July 14, 2003 at 12.

<sup>23</sup> 47 C.F.R. § 54.307(b).

<sup>24</sup> *Joint Board Recommendation* at ¶ 102 [emphasis added].

not used in high cost areas. It would be premature to designate Sprint or any other wireless carrier as a CETC until this issue is resolved.

### **III. THE FCC MAY IMPOSE NEW REQUIREMENTS WITH WHICH CETCS MUST COMPLY AT ANY TIME THROUGH A RULEMAKING OR ADJUDICATORY PROCEEDING**

The FCC concluded that the framework it adopted in the *Virginia Cellular Order* “shall apply to all ETC designations for rural areas pending further action by the Commission.”<sup>25</sup> However, RCC and Cellular South argue that the rules adopted in the *Virginia Cellular* and *Highland Cellular* orders should not be imposed on them because they were “not on notice that those orders would result in new rules.”<sup>26</sup> RCC’s and Cellular South’s complaints lack merit and should be disregarded.

As described below, the FCC may impose new designation requirements on a CETC at any time -- even after the FCC initially designated the carrier as a CETC. In the *Virginia Cellular Order*, for example, the FCC made clear that, while Virginia Cellular’s ETC designation was effective immediately, “the outcome of the [FCC’s] pending proceeding before the Joint Board examining the rules relating to high-cost universal service support in competitive areas could potentially impact the support that Virginia Cellular and other ETCs may receive in the future.”<sup>27</sup> As a result, the FCC warned Virginia Cellular and other ETCs that the rules could change prospectively. The risk that the FCC will change its designation rules -- or any other rules -- always exists. To the extent that RCC and Cellular South are concerned about their long-term ability to provide supported services because they deem support as insufficient or the rules as too strenuous, nothing prevents them from relinquishing their ETC designations and

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<sup>25</sup> *Virginia Cellular* at ¶ 4.

<sup>26</sup> RCC Supplement at 2; Cellular South Supplement at 2.

<sup>27</sup> *Virginia Cellular Order* at ¶ 12.

corresponding benefits and obligations.<sup>28</sup> CETC status is not an entitlement. In order to reap the benefits of CETC status, CETCs have to endure the obligations associated with those benefits.

#### **IV. THE ACT CLEARLY IMPOSES A PUBLIC INTEREST STANDARD FOR BOTH RURAL AND NON-RURAL AREAS**

Sprint argues that it is unlawful and inconsistent with the Act for the FCC to require a separate public interest showing for ETC designations in non-rural areas.<sup>29</sup> To accept Sprint's argument requires the reader to ignore the very language of the Act. Section 214(e)(2) provides that "upon request and *consistent with the public interest, convenience, and necessity*, the State commission . . . shall, in the case of all other areas [non-rural], designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission."<sup>30</sup> Contrary to Sprint's argument, the statute unequivocally requires a public interest showing for ETC designations in non-rural areas.

Some ETCs have argued in other proceedings that the last sentence of Section 214(e)(2), which expressly requires a public interest finding before designating additional ETCs in rural areas, demonstrates that a public interest finding is not required for ETC designations in non-rural areas. This argument is without merit. The focus of the last sentence of Section 214(e)(2) is to underscore that some rural markets may not be able to sustain more than one ETC. The last sentence of Section 214(e)(2) should not be interpreted as indicating that a public interest finding is only necessary for rural designations. Rather, in order to give meaning to every word and sentence in Section 214(e)(2), one must necessarily conclude that rural

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<sup>28</sup> See *Virginia Cellular Order* at ¶ 12.

<sup>29</sup> Sprint Supplement at 3-4.

<sup>30</sup> 47 U.S.C. § 214(e)(2).

designations require a separate public interest finding -- not that Section 214(e)(2) fails to impose a public interest finding for non-rural designations.<sup>31</sup>

Sprint also complains that the FCC did not establish in the *Virginia Cellular Order* a specific public interest standard for non-rural areas.<sup>32</sup> However, the FCC clearly concluded that Virginia Cellular satisfied the public interest standard for both the rural *and non-rural* service areas in the CMRS carrier sought designation.<sup>33</sup>

**V. THE FCC SHOULD REJECT ALLTEL'S CLAIMS THAT ITS SUPPLEMENTAL PETITIONS CONFIRM THE ABSENCE OF CREAM-SKIMMING OPPORTUNITIES**

ALLTEL claims in its Michigan Supplement that it disproportionately serves the lower-density, higher-cost portions of the ILECs' partially served study areas.<sup>34</sup> Yet, even ALLTEL has to admit that of CenturyTel of Michigan's partially served study areas, one of the served wire centers has a much higher density than CenturyTel of Michigan's other wire centers. ALLTEL also concedes that within a study area operated by Wolverine Telephone Co., one of the two served wire centers is the highest-density wire center in the study area.<sup>35</sup> ALLTEL attempts to dispose of these indisputable facts either by noting that the (CenturyTel) study area

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<sup>31</sup> Indeed, this analysis is consistent with the FCC's conclusion that, by satisfying "the more rigorous public interest analysis for the rural study areas," Virginia Cellular necessarily satisfied the public interest requirements for non-rural areas. *Virginia Cellular Order* at ¶ 27.

<sup>32</sup> Sprint Supplement at 4.

<sup>33</sup> *Virginia Cellular Order* at ¶ 27 (stating that "we nevertheless conclude that Virginia Cellular's public interest showing here is sufficient based on the detailed commitments Virginia Cellular made to ensure that it provides high quality service throughout the proposed rural and non-rural areas; indeed, given our finding that Virginia Cellular has satisfied the more rigorous public interest analysis for the rural study areas, it follows that its commitments satisfy the public interest requirements for non-rural areas.")

<sup>34</sup> ALLTEL Michigan Supplement at 4.

<sup>35</sup> *Id.* at 5.

accounts for less than 12% of the total population of the served wire centers in that area or by claiming that the second highest-density wire center is one of the two unserved wire centers (Wolverine). These arguments beg the question. They fail to support a finding that ALLTEL is not engaged in cream-skimming in the affected study areas.

## **VI. THE FCC HAS ALREADY REJECTED THE DESIGNATION OF CETCS BELOW THE WIRE CENTER LEVEL**

Even after the FCC pronounced in the *Highland Cellular Order* its disapproval of ETC designations below the wire center level, the Minnesota PUC still refuses to reverse its prior decision approving the redefinition of twelve rural carriers' service areas at the sub-wire center level.<sup>36</sup> The Minnesota PUC takes the indefensible position that the FCC's decision in the *Highland Cellular Order* does not constitute "an absolute ban on redefinition below the wire center level."<sup>37</sup> The FCC acknowledged that the Wireline Competition Bureau had previously approved designations for a portion of a rural carrier's wire center; however, the FCC concluded in the *Highland Cellular Order* that on a going forward basis "making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest."<sup>38</sup> The FCC went on to conclude that "prior to designating an additional ETC in a rural telephone company's service area, the competitor must commit to provide the supported services to customers through a minimum geographic area." Nothing in the *Highland Cellular Order* indicates that the FCC intended to limit its decision to the facts before it, or that there may be instances in which the FCC would approve a designation at the sub-wire center level. According to the FCC, the wire center -- not a sub-wire center -- is such "an appropriate minimum

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<sup>36</sup> Minnesota PUC Supplement at 1-2.

<sup>37</sup> *Id.*

<sup>38</sup> *Highland Cellular Order* at ¶ 33.

geographic area.”<sup>39</sup> Significantly, the FCC noted that if a CETC is required to serve an entire community, it is less likely to relinquish its ETC designation later.<sup>40</sup> Although the Minnesota PUC retorts that there is no evidence that an ETC will relinquish its status as a result of a redefinition at the sub-wire level, it also fails to acknowledge that it lacks evidence that redefinition at the sub-wire level will *not* induce competitive ETCs to relinquish their ETC status. CenturyTel urges the FCC to require that Midwest Wireless not be designated below the wire center level.

As CenturyTel noted in its comments in response to the Minnesota PUC’s petition to redefine twelve rural carriers’ service areas at the sub-wire center level, neither the petition nor Midwest’s designation as an ETC proposes to bring any “new competition” to the market. Rather, Midwest will enjoy a windfall in federal support for doing exactly what it is doing today without support. CenturyTel has filed extensive comments in this docket<sup>41</sup> and given testimony to the Joint Board on Universal Service,<sup>42</sup> arguing for clear federal standards for redefinitions such as the instant one. CenturyTel urges the FCC to postpone decision on this issue so it may benefit from the recommendations of the Joint Board in the pending rulemaking proceeding.<sup>43</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Comments of CenturyTel, Inc., CC Docket 96-45, filed on May 5, 2003; Reply Comments of CenturyTel, Inc., CC Docket 96-45, filed on June 3, 2003.

<sup>42</sup> Prepared Testimony of Jeff Glover, Vice President of CenturyTel, Inc., on Behalf of Independent Telephone & Telecommunications Alliance, Before the Federal-State Joint Board on Universal Service, CC Docket 96-45, filed July 22, 2003.

<sup>43</sup> Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, FCC 03J-1, CC Docket No. 96-45 (rel. Feb. 7, 2003) (“*CETC Proceeding*”).

Deferring the decision will help ensure that the FCC does not redefine any rural ILEC's study area in a manner inconsistent with the FCC's rules.

## **VII. THE FCC SHOULD REJECT THE COLORADO PUC'S PETITION TO REDEFINE CENTURYTEL OF EAGLE'S STUDY AREA**

In the *Virginia Cellular Order*, the FCC evaluated the population density of each affected wire center to determine whether the proposed designation raised rural cream-skimming concerns.<sup>44</sup> As the FCC acknowledged, "rural cream-skimming occurs when competitors seek to serve only the low-cost, high revenue customers in a rural telephone company's study area."<sup>45</sup> Thus, when a carrier proposes to serve less than the rural ILEC's entire study area, concerns arise that the competitor may intend to cream-skim in the rural study area.<sup>46</sup> The FCC concluded in the *Virginia Cellular Order* that, on the one hand, where the carrier requesting the designation will not be serving only low-cost areas to the exclusion of high-cost areas, cream-skimming concerns are less significant.<sup>47</sup> On the other hand, where the requesting carrier seeks to serve only the lowest-cost, highest-density wire centers in a rural ILEC's study area, and there is a great disparity between the low-cost wire centers that the carrier seeks to serve and the wire centers that fall outside the proposed area, the designation could potentially undermine the rural ILEC's ability to serve its entire study area.<sup>48</sup>

The Colorado PUC claims that its 2001 order redefining CenturyTel's study area into 53 ETC service areas is consistent with the FCC's analysis in the *Virginia Cellular Order*, particularly the FCC's concerns regarding cream-skimming. CenturyTel disagrees and maintains

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<sup>44</sup> *Virginia Cellular Order* at ¶¶ 32-35.

<sup>45</sup> *Id.* at ¶ 32.

<sup>46</sup> *Id.* at ¶ 32.

<sup>47</sup> *Id.* at ¶ 34.

<sup>48</sup> *Id.* at ¶ 35.



that opportunities for cream-skimming continue to exist pursuant to the PUC's petition.

Although it is true that the FCC will examine whether an ILEC has disaggregated support in determining whether cream-skimming may occur, the FCC also regards comparative data on population densities as key to any cream-skimming analysis. Having acknowledged the FCC's special emphasis on population density in each wire center, the Colorado PUC claims that its petition "presents similar information regarding CenturyTel."<sup>49</sup> In fact, the Petition does not include any data on population densities for wire centers. The Petition apparently equates the average number of access lines for CenturyTel's Zone 1 and Zone 2 wire centers with population density for each wire center. The average number of lines only indicates that the wire centers in Zone 1 have more lines on average than those in Zone 2. Without relevant square mileage information, however, one cannot determine the relative line density in the zones. Furthermore, within the zones, there may be disparities in line density across wire centers, which also could demonstrate an opportunity to cream-skim. The FCC acknowledged that factors other than population density can define high-cost areas;<sup>50</sup> however, the average number of access lines for each zone's wire centers alone does not provide the FCC with the comparative analysis necessary to determine whether cream-skimming opportunities exist. The FCC should require the Colorado PUC to supplement its application with population density data or reject the petition outright for failure to do so. If the FCC adopts the Colorado PUC's petition, it should permit CenturyTel to disaggregate support before redefining its study area into dozens of smaller ETC service areas.

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<sup>49</sup> Colorado PUC Supplement at 5.

<sup>50</sup> *Virginia Cellular Order* at ¶ 34.

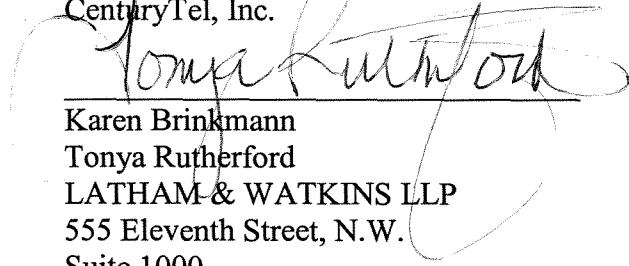
## VIII. CONCLUSION

For the foregoing reasons, the FCC should deny the Petitions.

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